

### **Remarks**

The reminder by the Examiner that the Abstract should be in narrative form and preferably limited to a single paragraph with the aim of assisting in determining a need to review or consult the subject matter of the issued patent is noted.

Applicant proposes to amend the Abstract upon acceptance of any claim as now amended or as further amended so that the proper focus can be expressed in that statement.

### **Claim Objections**

Claims 6 and 10 objected to under 37 CFR 1.75 (c) have been amended to assert dependency only upon new claims 11 and 12 which have been entered to replace original claims 1 and 2 now cancelled, to which have been added expressions of structure in detailing the combination to more clearly capture the inventive concept disclosed; which in Applicants characterization reveals a much more simplified and commercially viable approach to furnishing an attractive and comfortably portable instrument armed with a securely anchored and at the ready repellent spray component to respond to an attack and as an instrument for defence, if that should arise.

Here Applicant also indicates that elected claims 2, 3, and 8, like claims 6 and 10 have been amended to depend from claims 11 or 12.

### **REJECTION of Claims 1, 2, 3, and 8 under 35 USC 102 (b)**

Claims 1 and 2 have been cancelled.

Claims 11 and 12 mirror claims 1 and 2 respectively in principal part with additional structure recited in the delineation of the surfaces of mated repellent spray device and cavity of the handle portion of the combination that under **press fit** are sufficiently engaged in an axial direction as to

capture and secure same against separation.

Applicant contends with respect that the cited Denison patent No. 5,709,635 upon close examination cannot survive as an anticipation under the 35 USC 102 (b) of the statute as interpreted by the jurisprudence given that not only is the precise arrangement of the components in the instant application not shown in the illustrations of the Denison patent, there is absent in that patent any suggestion let alone a teaching that Applicant's approach would work or would be worth a try in reaching the level of a successful commercial embodiment.

The records at the USPTO show that the Denison patent of which Hyak Corporation of Mercer Island Washington was recorded as owner, expired for failure to pay the first due maintenance fee, as of January 22, 2002. See attached printout. From that information an inference could be drawn that exploitation commercially was not pursued.

Compared to Applicant's unit it is plain that either species ( See figures 1-8 and 9-13 ) of exercise hand weights with self contained defence spray containers of Denison cry **complexity** as to the number of parts to be produced and assembled.

With **two** appropriately selected components minimum, applicant can readily produce assemble and move his instrument to market. A reproduction of Applicant's web site pages illustrates the path taken to exploit the invention.

In interpreting claim 1 of the instant application as recited on page 4 of the Official action of March 3, 2009, the Examiner applies Denison: the handle portion 141 ( described as a tubular cover 141, col 8 l. 34) wraps around the cylindrical body 104 ( the Examiner refers to " shaft portion 114" ) and the disposition of the reservoir 131 of the spray dispensing unit 103 of Denison within the cavity (described as the body channel 105) of the body 104.

More particularly at column 9 line 36 Denison recites as follows:

“The spray cylinder body 131 is similar in configuration and incrementally smaller than the body channel 105 so that the container will slidably fit therein. A resilient ring 136 is carried in groove 132 to extend in a radial direction spacedly outwardly from the body cylinder for carriage within spray container groove 109 to support the spray container in the body channel 105”

It must be concluded having regard to the foregoing that Denison avoids capturing engagement of the opposing surfaces of spray cylinder body and body channel ( Applicants press fit limitation) and instead specifies groove 109 for the body channel 105 and spray container groove 109 for spray container 103 for registering with annular ring 136 to support same, i.e to suspend same .

Denison earlier asserts at column 7 line 66 to column 8 line 3 the following :

“ The inner surface of the upper portion of body 104 defines annular spray container groove 109 to allow passage and **positional maintenance** of a self defence spray container in the upper portion of body channel 105”.

To the extent that the description and drawings allow for interpretation, essentially it can be deduced that the spray container of Denison is **suspended** within the body channel and **positioned** by the ring 136; and that the opposed surfaces of the components do **not** engage as dictated by Applicants invention.

The conclusion of the Examiner as to the disclosure in Denison showing a **press fit** to establish sufficient gripping engagement between the mated components is **not** justified.

On the same ground is the rejection of Claim 2, 3 and 8 on Denison **unjustified**.

In recasting claims 1 and 2 as claims 11 and 12 Applicant has introduced the following language;

"the cavity and reservoir having an axis of alignment and presenting opposed **axially extending boundary surfaces** of mating configuration substantially throughout their extent and of a tolerance such that in **mated alignment under a press fit** such boundary surfaces exert sufficient frictional gripping engagement therebetween to anchor same against separation"

Here in Applicants proposal and embodiments a **simplification** of approach in augmenting defensive instruments is revealed and demonstrated ; and is clearly not disclosed nor taught by any cited reference.

Accordingly reconsideration and acceptance of the amended claims are requested.

The agent for the Applicant again brings forward the following:

His e-mail address has changed .

It now reads; wfgreenpat@bellnet.ca. Will the Examiner kindly amend that entry in this file.

All of which is respectfully submitted,



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